

**Title 410 - NEBRASKA DEPARTMENT OF ROADS - RIGHT OF WAY DIVISION**

**Chapter 5 - Relocation Assistance (Continued)**

**APPENDIX A - ADDITIONAL INFORMATION**

This appendix provides additional information to explain the intent of certain provisions.

**GENERAL (001)**

**DEFINITIONS. (001.02)**

**DEFINITION OF COMPARABLE REPLACEMENT DWELLING. (001.02D)**

The requirement in Section 001.02D2 that a comparable replacement dwelling be "functionally equivalent" to the displacement dwelling means that it must perform the same function, provide the same utility, and be capable of contributing to a comparable style of living as the displacement dwelling. While it need not possess every feature of the displacement dwelling, the principal features must be present.

For example, if the displacement dwelling contains a pantry and a similar dwelling is not available, a replacement dwelling with ample kitchen cupboards may be acceptable. Insulated and heated space in a garage might prove an adequate substitute for basement workshop space. A dining area may substitute for a separate dining room. Under some circumstances, attic space could substitute for basement space for storage purposes, and vice versa.

Only in unusual circumstances may a comparable replacement dwelling contain fewer rooms or, consequentially less living space than the displacement dwelling. Such may be the case when a decent, safe, and sanitary replacement dwelling (which by definition is "adequate to accommodate" the displaced person) may be found to be "functionally equivalent" to a larger but very run-down substandard displacement dwelling.

Section 001.02D7 requires that a comparable replacement dwelling for a person who is not receiving assistance under any government housing program before displacement must be currently available on the private market without any subsidy under a government housing program.

A public housing unit may qualify as a comparable replacement dwelling only for a person displaced from a public housing unit; a privately-owned dwelling with a housing program subsidy tied to the unit may qualify as a comparable replacement dwelling only for a person displaced from a similarly subsidized unit or public housing; a housing program subsidy to a person (not tied to the building), such as a HUD Section 8 Existing Housing Program Certificate or a Housing Voucher, may be reflected in an offer of a comparable replacement dwelling to a person receiving a similar subsidy or occupying a privately-owned subsidized unit or public housing unit before displacement.

Title 410 - NEBRASKA DEPARTMENT OF ROADS - RIGHT OF WAY DIVISION

Chapter 5 - Relocation Assistance (Continued)

APPENDIX A - ADDITIONAL INFORMATION (Continued)

However, nothing in this rule prohibits an Agency from offering, or precludes a person from accepting, assistance under a government housing program, even if the person did not receive similar assistance before displacement. However, the Agency is obligated to inform the person of his or her options under this rule. (If a person accepts assistance under a government housing program, the rental assistance payment under Section 004.02 would be computed on the basis of the persons actual out-of-pocket cost for the replacement housing.)

PERSONS NOT DISPLACED. (001.02G2)

Section 001.2G2d recognizes that there are circumstances where the acquisition of real property takes place without the intent or necessity that an occupant of the property be permanently displaced. Because such occupants are not considered "displaced persons" under this rule, great care must be exercised to ensure that they are treated fairly and equitably. For example, if the tenant-occupant of a dwelling will not be displaced, but is required to relocate temporarily in connection with the project, the temporarily-occupied housing must be decent, safe, and sanitary and the tenant must be reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including moving expenses and increased housing costs during the temporary relocation.

It is also noted that any person who disagrees with the Agency's determination that he or she is not a displaced person under this rule may file an appeal in accordance with Section 001.05.

Section 001.02G2e refers to voluntary acquisitions. These transactions must meet the following conditions:

- (i) No specific site or property needs to be acquired, although the Agency may limit its search for alternative sites to a general geographic area. Where an Agency wishes to purchase more than one site within a geographic area on this basis, all owners are to be treated similarly.
- (ii) The property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the area is to be acquired within specific time limits.
- (iii) The Agency will not acquire the property in the event negotiations fail to result in an amicable agreement, and the owner is so informed in writing.
- (iv) The Agency will inform the owner of what it believes to be the fair market value of the property;  
or

## Title 410 - NEBRASKA DEPARTMENT OF ROADS - RIGHT OF WAY DIVISION

## Chapter 5 - Relocation Assistance (Continued)

APPENDIX A - ADDITIONAL INFORMATION (Continued)

Acquisitions for programs or projects undertaken by an Agency or person that does not have authority to acquire property by eminent domain, provided that such Agency or person shall:

- (i) Prior to making an offer for the property, clearly advise the owner that it is unable to acquire the property in the event negotiations fail to result in an amicable agreement; and
- (ii) Inform the owner of what it believes to be fair market value of the property.

INITIATION OF NEGOTIATIONS. (001.02K)

This section of the rule provides a special definition for acquisitions and displacements under Public Law 96-510 or Superfund. These activities differ under Superfund in that relocation may precede acquisition, the reverse of the normal sequence. Superfund is a program designed to clean up hazardous waste sites. When such a site is discovered, it may be necessary, in certain limited circumstances, to alert the public to the danger and to the advisability of moving immediately. If a decision is made later to permanently relocate such persons, those who had moved earlier would no longer be on site when a formal, written offer to acquire the property was made and thus would lose their eligibility for a replacement housing payment. In order to prevent this *unfair outcome*, we have provided a definition which is based on the public health advisory or announcement of permanent relocation.

SMALL BUSINESS. (001.02S)

Section 001.02S is intended to emphasize "a location of economic activity." In doing this, it is clear that such businesses as a coin-operated facility or storage building visited by employees on a regular basis, daily or at least weekly, would qualify for reestablishment expenses. This would also include an occupied rental property at which the owner maintains personal property and for which rental property the owner is responsible for maintenance.

NO DUPLICATION OF PAYMENTS. (001.03)

This section prohibits an Agency from making a payment to a person under these regulations that would duplicate another payment the person receives under federal, state, or local law. The Agency is not required to conduct an exhaustive search for such other payments; it is only required to avoid creating a duplication based on the Agency's knowledge at the time a payment under these regulations is computed.

GENERAL RELOCATION REQUIREMENTS (002)AVAILABILITY OF COMPARABLE REPLACEMENT DWELLING BEFORE DISPLACEMENT. (002.04)



Title 410 - NEBRASKA DEPARTMENT OF ROADS - RIGHT OF WAY DIVISION

Chapter 5 - Relocation Assistance (Continued)

APPENDIX A - ADDITIONAL INFORMATION (Continued)

GENERAL (002.04A)

This provision requires that no one may be required to move from a dwelling without one comparable replacement dwelling having been made available. In addition, Section 002.04A requires that, "Where possible, three or more comparable replacement dwellings shall be made available." Thus, the basic standard for the number of referrals required under this section is three. Only in situations where three comparable replacement dwellings are not available (e.g., when the local housing market does not contain three comparable dwellings) may the Agency make fewer than three referrals.

RELOCATION ASSISTANCE ADVISORY SERVICES (002.05)

Section 002.05B2b(3) is intended to emphasize that if the comparable replacement dwellings are located in areas of minority concentration, minority persons should, if possible, also be given opportunities to relocate to replacement dwellings not located in such areas.

GENERAL REQUIREMENTS - CLAIMS FOR RELOCATION PAYMENTS (002.07)

Section 002.07A allows an Agency to make a payment for low cost or uncomplicated moves without additional documentation, as long as the payment is limited to the amount of the lowest acceptable bid or estimate, as provided for in Section 003.03C.

PAYMENT FOR MOVING AND RELATED EXPENSES (003)

FIXED PAYMENT FOR MOVING EXPENSES - NONRESIDENTIAL MOVES (003.06)

NONPROFIT ORGANIZATIONS (003.06D)

Gross revenues may include membership fees, class fees, cash donations, tithes, receipts from sales or other forms of fund collection that enables the nonprofit organization to operate. Administrative expenses are those for administrative support such as rent, utilities, salaries, advertising and other like items as well as fund raising expenses. Operating expenses for carrying out the purposes of the nonprofit organization are not included in administrative expenses. The monetary receipts and expense amounts may be verified with certified financial statements or financial documents required by public agencies.

REPLACEMENT HOUSING PAYMENTS (004)

Title 410 - NEBRASKA DEPARTMENT OF ROADS - RIGHT OF WAY DIVISION

Chapter 5 - Relocation Assistance (Continued)

APPENDIX A - ADDITIONAL INFORMATION (Continued)

REPLACEMENT HOUSING PAYMENT FOR 180-DAY HOMEOWNER OCCUPANTS. (004.01)

The provision for extending eligibility for a replacement housing payment beyond the one-year period for good cause means that an extension may be granted if some event beyond the control of the displaced person such as acute or life threatening illness, bad weather preventing the completion of construction of a replacement dwelling or other like circumstances should cause delays in occupying a decent, safe, and sanitary replacement dwelling. (004.01A2)

The provision in Section 004.01C4c to use the current fair market value for residential use does not mean the Agency must have the property appraised. Any reasonable method for arriving at the fair market value may be used. (004.01C)

INCREASE MORTGAGE INTEREST COSTS. (004.01D)

The provision in Section 004.01D set forth the factors to be used in computing the payment that will be required to reduce a persons replacement mortgage (added to the downpayment) to an amount which can be amortized at the same monthly payment for principal and interest over the same period of time as the remaining term on the displacement mortgages. If the term on the new mortgage is shorter and, therefore, used in the determination of the payment, it will be necessary to recalculate a new monthly principal and interest payment for the displacement dwelling based on the interest rate and mortgage balance(s) on the displacement dwelling and the term of the new mortgage. This payment is commonly known as the "buydown

The remaining principal balance, the interest rate, and monthly principal and interest payments for the old mortgage as well as the interest rate, points and term for the new mortgage must be known to compute the increased mortgage interest costs. If the combination of interest and points for the new mortgage exceeds the current prevailing fixed interest rate and points for conventional mortgages and there is no justification for the excessive rate, then the current prevailing fixed interest rate and points shall be used in the computations. Justification may be the unavailability of the current prevailing rate due to the amount of the new mortgage, credit difficulties, or other similar reasons.

Title 410 - NEBRASKA DEPARTMENT OF ROADS - RIGHT OF WAY DIVISION

Chapter 5 - Relocation Assistance (Continued)

APPENDIX A - ADDITIONAL INFORMATION (Continued)

SAMPLE COMPUTATION

Old Mortgage:	
Remaining Principal Balance .....	\$50,000.00
Monthly Payment (principal and interest).....	458.22
Interest Rate (percent) .....	7
New Mortgage:	
Interest rate (percent).....	10
Points .....	3
Term (years).....	15

Remaining term of the old mortgage is determined to be 174 months. (Determining, or computing, the actual remaining term is more reliable than using the data supplied by the mortgagee.) However, if it is shorter, use the term of the new mortgage and compute the needed monthly payment.

The amount to be financed to maintain a monthly payment of \$458.22 at 10% is \$42,010.18.

Remaining principal balance on old mortgage .....	\$50,000.00
Less amount of reduced loan.....	<u>-42,010.18</u>
Increased mortgage interest costs .....	\$ 7,989.82
3 points on \$42,010.18 .....	<u>1,260.31</u>

Total buydown necessary to maintain payments at \$458.22/month .....	\$ 9,250.13
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If the new mortgage actually obtained is less than the computed amount for a new mortgage (\$42,010.18), the buydown shall be prorated accordingly. If the actual mortgage obtained in our example were \$35,000, the buydown payment would be \$7,706.57 (\$35,000 divided by \$42,010.18 = .8331 \$9,250.13 x .8331 = \$7,706.57).

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Title 410 - NEBRASKA DEPARTMENT OF ROADS - RIGHT OF WAY DIVISION

Chapter 5 - Relocation Assistance (Continued)

APPENDIX A - ADDITIONAL INFORMATION (Continued)

The following sample is for computations involving a shorter term at the replacement property.

Old Mortgage:

Remaining Principal Balance .....	\$50,000.00
Monthly Payment (principal and interest) .....	458.22
Interest Rate (percent) .....	7
Remaining Term (months).....	174

New Mortgage:

Interest Rate (percent) .....	10
Term (months).....	120
Points .....	3

Because the new term is less than the remaining term at the displacement dwelling, it is necessary to recalculate a new monthly principal and interest payment for the displacement dwelling based on the interest rate and mortgage balance on the old mortgage and the term of the new mortgage. The monthly payment for \$50,000.00 at 7% for 120 months is \$580.54.

The amount to be financed to maintain a monthly payment of \$580.54 at 10% is \$43,930.14.

Remaining principal balance on old mortgage .....	\$50,000.00
Less amount of reduced loan.....	<u>43,930.14</u>
Increased mortgage interest costs .....	\$ 6,069.86
3 points on \$43,930.14 .....	<u>1,317.90</u>

Total buydown necessary to maintain payment at \$580.54/month .....	\$ 7,387.76
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The Agency is obligated to inform the person of the approximate amount of this payment and that he or she must obtain a mortgage of at least the same amount as the computed buydown mortgage amount and for at least the same term in order to receive the full amount of this payment. The displacee is also to be advised of the interest rate and points used to calculate the payment.

Title 410 - NEBRASKA DEPARTMENT OF ROADS - RIGHT OF WAY DIVISION

Chapter 5 - Relocation Assistance (Continued)

APPENDIX A - ADDITIONAL INFORMATION (Continued)

REPLACEMENT HOUSING PAYMENT FOR 90-DAY OCCUPANTS. (004.02)

DOWNPAYMENT ASSISTANCE PAYMENT. (004.02C)

The downpayment assistance provisions in Section 004.02C are intended to limit such assistance to the amount of the computed rental assistance payment for a tenant or an eligible homeowner. It does, however, provide the latitude for Agency discretion in offering downpayment assistance which exceeds the computed rental assistance payment, up to the \$5,250 statutory maximum. This does not mean, however, that such Agency discretion may be exercised in a selective or discriminatory fashion. The displacing Agency should develop a policy which affords equal treatment for persons in like circumstances and this policy should be applied uniformly throughout the Agency's programs or projects. It is recommended that displacing Agencies coordinate with each other to reach a consensus on a uniform procedure for the state and/or the local jurisdiction.

For purposes of this section, the term downpayment means the downpayment ordinarily required to obtain conventional loan financing for the decent, safe, and sanitary dwelling actually purchased and occupied. However, if the downpayment actually required of a displaced person for the purchase of the replacement dwelling exceeds the amount ordinarily required, the amount of the downpayment may be the amount which the Agency determines is necessary.

ADDITIONAL RULES GOVERNING REPLACEMENT HOUSING PAYMENTS. (004.03)

DETERMINING COST OF COMPARABLE REPLACEMENT DWELLING. (004.03A)

The procedure for adjusting the asking price of comparable replacement dwellings requires that the Agency provide advisory assistance to the displaced person concerning negotiations so that he or she may enter the market as a knowledgeable buyer. If a displaced person elects to buy one of the selected comparables, but cannot acquire the property for the adjusted price, it is appropriate to increase the replacement housing payment to the actual purchase amount. (004.03A1)

REPLACEMENT HOUSING OF LAST RESORT. (004.04)

BASIC RIGHTS OF PERSONS TO BE DISPLACED. (004.04B)

This paragraph affirms the right of a 180-day homeowner-occupant, who is eligible for a replacement housing payment under Section 004.01, to a reasonable opportunity to purchase a comparable replacement dwelling. However, it should be read in conjunction with the definition of "owner of a dwelling" in Section 001.02P.



Title 410 - NEBRASKA DEPARTMENT OF ROADS - RIGHT OF WAY DIVISION

Chapter 5 - Relocation Assistance (Continued)

APPENDIX A - ADDITIONAL INFORMATION (Continued)

The Agency is not required to provide persons owning only a fractional interest in the displacement dwelling a greater level of assistance to purchase a replacement dwelling than the Agency would be required to provide such persons if they owned fee simple title to the displacement dwelling. If such assistance is not sufficient to buy a replacement dwelling, the Agency may provide additional purchase assistance or rental assistance.

METHODS OF PROVIDING COMPARABLE REPLACEMENT HOUSING. (004.04C)

The use of cost effective means of providing comparable replacement housing is implied throughout the section. The term "reasonable cost" is used here to underline the fact that while innovative means to provide housing are encouraged, they should be cost-effective.

Section 004.04C2 permits the use of last resort housing, in special cases, which may involve variations from the usual methods of obtaining comparability. However, it should be specially noted that such variation should never result in a lowering of housing standards nor should it ever result in a lower quality of living style for the displaced person. The physical characteristics of the comparable replacement dwelling may be dissimilar to those of the displacement dwelling but they may never be inferior.

One example might be the use of a new mobile home to replace a very substandard conventional dwelling in an area where comparable conventional dwellings are not available.

Another example could be the use of a superior, but smaller decent, safe and sanitary dwelling to replace a large, old substandard dwelling, only a portion of which is being used as living quarters by the occupants and no other large comparable dwellings are available in the area.

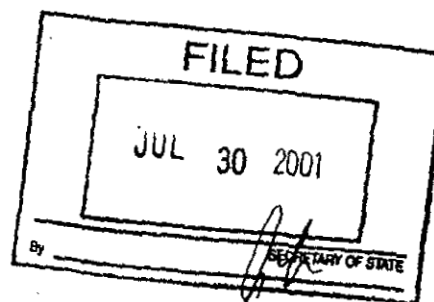
MOBILE HOMES (005)

REPLACEMENT HOUSING PAYMENT FOR 180-DAY MOBILE HOMEOWNER-OCCUPANTS. (005.03)

A 180-day owner-occupant who is displaced from a mobile home on a rented site may be eligible for a replacement housing payment for a dwelling computed under Section 004.01 and a replacement housing payment for site computed under Section 004.02. A 180-day owner-occupant of both the mobile home and the site, who relocates the mobile home, may be eligible for a replacement housing payment under Section 004.01 to assist in the purchase of a replacement site or, under Section 004.02, to assist in renting a replacement site.

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Title 410 - NEBRASKA DEPARTMENT OF ROADS - RIGHT OF WAY DIVISION

Chapter 5 - Relocation Assistance (Continued)

APPENDIX B - RESIDENTIAL MOVING EXPENSE AND DISLOCATION ALLOWANCE PAYMENT SCHEDULE  
(003.02)

This appendix provides additional information to explain this procedure. The schedule is as follows:

RESIDENTIAL MOVING EXPENSE AND DISLOCATION ALLOWANCE PAYMENT SCHEDULE										
Occupant Provides Furniture								Occupant Does Not Provide Furniture		
Number of Rooms of Furniture								Each Add'l. Room	First Room	Each Add'l. Room
1	2	3	4	5	6	7	8			
\$250	\$350	\$450	\$550	\$625	\$700	\$775	\$850	\$75	\$200	\$25

The exceptions and limitations are as follows:

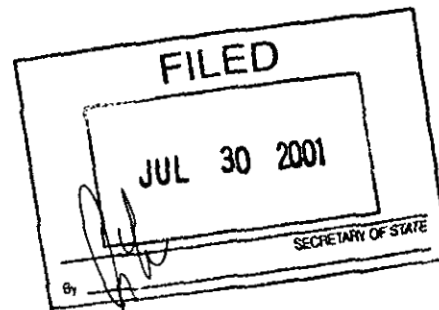
1. The expense and dislocation allowance to a person whose residential move is performed by an Agency at no cost to the person shall be limited to \$50.00.
2. An occupant will be paid on an actual cost basis for moving his or her mobile home from the displacement site. In addition, a reasonable payment to the occupant for packing and securing personal property for the move may be paid at the Agency's discretion.
3. The expense and dislocation allowance to a person with minimal personal possessions who is in occupancy of a dormitory style room shared by two or more other unrelated persons shall be limited to \$50.00.

An occupant who moves from a mobile home may be paid for the removal of personal property from the mobile home in accordance with the moving and dislocation allowance payment schedule.

Title 410 - NEBRASKA DEPARTMENT OF ROADS - RIGHT OF WAY DIVISION

Chapter 5 - Relocation Assistance (Continued)

An occupant who moves from a mobile home may be paid for the removal of personal property from the mobile home in accordance with the moving and dislocation allowance payment schedule.



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